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17 **UNITED STATES DISTRICT COURT**

18 **NORTHERN DISTRICT OF CALIFORNIA**

19 BARBARA FAFARD, Individually and
20 on behalf of all others similarly situated,

21 Plaintiffs,

22 vs.

23 APPLE INC.; BEST BUY CO., INC.; and
24 INCOMM HOLDINGS, INC.,

25 Defendants.

Case No.: 4:12-cv-05125-CW

**JOINT STATEMENT, STIPULATION
AND ~~PROPOSED~~ ORDER TO
CONTINUE CASE MANAGEMENT
CONFERENCE**

Date: September 25, 2013

Time: 2:00 p.m.

Courtroom: 2

Judge: Honorable Claudia Wilken

Pursuant to this Court's July 8, 2013 Order to Continue Case Management Conference ("Order") [Dkt. No. 32], Plaintiff Barbara Fafard ("Plaintiff") and Defendants Apple Inc. ("Apple"), Best Buy Co., Inc. ("Best Buy") and InComm Holdings, Inc. ("InComm") (collectively, "Defendants," and collectively with Plaintiff, the "Parties"), having been directed to file a joint statement advising the Court of the status of mediation and settlement discussions no later than September 18, 2013, hereby advise the Court as follows:

1. In late April 2013, the Parties rescheduled their mediation with Honorable Ronald M. Sabraw (Ret.) from April 25, 2013 to May 21, 2013.

2. On May 17, 2013, InComm and Best Buy filed extensive mediation statements with Judge Sabraw in advance of the May 21, 2013 mediation.

3. On May 21, 2013, Judge Sabraw conducted nine-hour mediation between InComm/Best Buy and Plaintiff at his JAMS office in San Francisco, California.

4. During the course of the mediation InComm, Best Buy and Plaintiff, through the efforts of Judge Sabraw, were able to reach an agreement in principle to settle the litigation.

5. This agreement in principle was reduced to a written Memorandum of Understanding (MOU) by Judge Sabraw on May 21, 2013. Since that date, the Parties have worked diligently to: (i) finalize the terms of the MOU; and (ii) complete certain confirmatory discovery to corroborate specific representations made by InComm and/or Best Buy regarding the circumstances of the case. Despite their best efforts and under Judge Sabraw's continued guidance, the Parties require an additional seventy-five (75) days to complete these tasks and to prepare a motion for preliminary approval of class settlement for the Court's consideration.

STIPULATION

NOW, THEREFORE, in consideration of the foregoing, the Parties request an additional seventy-five (75) days to: (i) finalize the terms of the MOU and settlement documents; (ii) complete confirmatory discovery under the MOU; (iii) prepare a motion for preliminary approval of class settlement for the Court's consideration; and (iv) return to the Court within that time frame, at a date and time convenient for the Court's calendar.

1 **IT IS SO STIPULATED.**

2 Dated: September 18, 2013

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4 By: /s/ William A. Kershaw

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15 DATED: September 18, 2013

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*Attorney for Defendants InComm Holdings, Inc.
and Best Buy Co., Inc.*

~~PROPOSED~~ ORDER

Pursuant to the above Stipulation, and good cause otherwise appearing therefore, the September 25, 2013 Case Management Conference is CONTINUED to December 11, 2013 at 2:00 p.m.. The Parties shall file a joint statement advising the Court of the status of mediation and settlement discussions no later than December 4, 2013.

IT IS SO ORDERED.

Dated: 9/19/2013



THE HONORABLE CLAUDIA WILKEN
UNITED STATES DISTRICT COURT JUDGE

1 I, David M. Walsh, hereby attest that concurrence in the filing of this Stipulation has been
2 obtained from each of the other signatories to this document, in full accordance with Civil
3 L.R. 5-1(i)(3).

4
5 DATED: September 18, 2013

MORRISON & FOERSTER LLP

6 By /s/ David Walsh
7 David M. Walsh